

No. 05-617 NOV 11 2005

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**In The  
Supreme Court of the United States**

LOUISIANA DEPARTMENT OF EDUCATION, ET AL.,  
*Petitioners,*

v.

THEODORE JOHNSON,  
*Respondent.*

SUZANNE MITCHELL, ET AL.,  
*Petitioners,*

v.

LYNN AUGUST,  
*Respondent.*

**On Petition For Writ Of Certiorari  
To The United States Court Of Appeals  
For The Fifth Circuit**

**PETITION FOR WRIT OF CERTIORARI**

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## QUESTIONS PRESENTED

1. Can Congress condition federal financial assistance to states upon a waiver of sovereign immunity under the Spending Clause, U.S. Const. art. I, §8, cl. 1, and, if so, is 42 U.S.C. §2000d-7(a) of the Civil Rights Remedies Equalization Act unconstitutionally coercive as applied in this case?
2. Under 42 U.S.C. §2000d-7(a) of the Civil Rights Remedies Equalization Act, can a waiver of sovereign immunity ever be knowing and voluntary when, under the jurisprudence at the time of complainant's cause of action and at the time the State accepted financial aid, immunity was already abrogated?

**PARTIES TO THE PROCEEDINGS**

LOUISIANA DEPARTMENT OF EDUCATION, ET AL.,  
Petitioners,

v.

THEODORE JOHNSON,  
Respondent.

**Petitioners:**

Louisiana Department of Education  
State of Louisiana  
President of the Louisiana State University System  
Louisiana Board of Regents  
University of New Orleans

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**PARTIES TO THE PROCEEDINGS – Continued**

**Intervenor:**

The United States of America  
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Room 5614  
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950 Pennsylvania Avenue, N.W.  
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SUZANNE MITCHELL, ET AL.,

Petitioners,

v.

LYNN AUGUST,

Respondent.

**Petitioners:**

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Mae Nelson  
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Department of Social Services for the State of Louisiana

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**Intervenor:**

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